

STATE OF MICHIGAN  
COURT OF APPEALS

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CHARLES CLARK,

Plaintiff-Appellant,

v

AUTO OWNERS INSURANCE COMPANY,

Defendant-Appellee.

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UNPUBLISHED

January 26, 2001

No. 218357

Wayne Circuit Court

LC No. 98-800981-NZ

Before: Markey, P.J., and Whitbeck and J. L. Martlew\*, JJ.

MEMORANDUM.

In this no-fault insurance benefits matter, plaintiff appeals by right from a judgment of no cause of action entered following a jury trial. We affirm.

Plaintiff asserts that the trial court abused its discretion in granting plaintiff's counsel's motion to withdraw before trial and in failing to allow plaintiff sufficient time to retain new counsel. A trial court's decision regarding a motion to withdraw, *In re Withdrawal of Attorney*, 234 Mich App 421, 431; 594 NW2d 514 (1999), or a party's request for an adjournment of trial to retain substitute counsel, *Zachrich v Booth Newspapers*, 119 Mich App 72, 74; 325 NW2d 630 (1982), is reviewed on appeal for an abuse of discretion. We find no abuse of discretion.

The trial court did not abuse its discretion in allowing counsel to withdraw where the withdrawal could be accomplished without material adverse effect on plaintiff's interests. MRPC 1.16(b). The fact that plaintiff was unsuccessful in securing the services of substitute counsel for this simple no-fault matter supports counsel's position that, by rejecting defendant's pretrial settlement offer, plaintiff may have already lost his best opportunity to prevail in this matter. Plaintiff failed to meet his burden of proof at trial regarding his claim for excess wage loss and replacement services under MCL 500.3107(1)(b) and (c); MSA 24.13107(1)(b) and (c).

Neither do we find any abuse of discretion by the trial court in allowing plaintiff approximately two weeks to retain new counsel. The right to representation by counsel contemplates the allowance of a reasonable opportunity to obtain counsel, but a party who

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\* Circuit judge, sitting on the Court of Appeals by assignment.

chooses not to exercise that right can be forced to proceed to trial without counsel. *Grevnin v Grevnin*, 315 Mich 519, 524; 24 NW2d 196 (1946); *Wykoff v Winisky*, 9 Mich App 662, 669; 158 NW2d 55 (1968). Here, plaintiff was given a reasonable opportunity to retain new counsel and prepare for this simple trial but voluntarily chose to represent himself. *Grevnin, supra*.

We affirm.

/s/ Jane E. Markey

/s/ William C. Whitbeck

/s/ Jeffrey L. Martlew